

ORIGINAL

5870-4X
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
ANN ARBOR DIVISION

FILED

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CLERK'S OFFICE
U.S. DISTRICT COURT
ANN ARBOR, MI

WARNER BROS. RECORDS INC., a Delaware corporation; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; UMG RECORDINGS, INC., a Delaware corporation; BMG MUSIC, a New York general partnership; ARISTA RECORDS LLC, a Delaware limited liability company; CAPITOL RECORDS, INC., a Delaware corporation; and ATLANTIC RECORDING CORPORATION, a Delaware corporation,

Hon.:

Case:

05-74394

ANNA DIGGS TAYLOR

VIRGINIA MORTON

Plaintiffs,

v.

LARRY SCANTLEBURY,

Defendant.

MATTHEW E. KRICHBAUM (P52491)
JONATHAN D. ROWE (P35384)
Soble Rowe Krichbaum, LLP
Attorneys for Plaintiffs
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Ann Arbor, Michigan 48104
(734) 996-5600

COMPLAINT FOR COPYRIGHT INFRINGEMENT

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).

2. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
3. This Court has personal jurisdiction over the Defendant, and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a), in that the Defendant resides in this District, and the acts of infringement complained of herein occurred in this District.

PARTIES

4. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.
5. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general partnership, with its principal place of business in the State of New York.
6. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.
7. Plaintiff BMG Music is a general partnership duly organized and existing under the laws of the State of New York, with its principal place of business in the State of New York.
8. Plaintiff Arista Records LLC is a limited liability company duly organized and

existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

9. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

10. Plaintiff Atlantic Recording Corporation is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

11. Plaintiffs are informed and believe that Defendant is an individual residing in this District.

COUNT 1

INFRINGEMENT OF COPYRIGHTS

12. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

13. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright with respect to certain copyrighted sound recordings (the "Copyrighted Recordings"). The Copyrighted Recordings include but are not limited to each of the copyrighted sound recordings identified in Exhibit A attached hereto,

each of which is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights. In addition to the sound recordings listed on Exhibit A, Copyrighted Recordings also include certain of the sound recordings listed on Exhibit B which are owned by or exclusively licensed to one or more of the Plaintiffs or Plaintiffs' affiliate record labels, and which are subject to valid Certificates of Copyright Registration issued by the Register of Copyrights.

14. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

15. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has used, and continues to use, an online media distribution system to download the Copyrighted Recordings, to distribute the Copyrighted Recordings to the public, and/or to make the Copyrighted Recordings available for distribution to others. In doing so, Defendant has violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and exclusive rights under copyright.

16. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on each respective album cover of each of the sound recordings identified in Exhibit A. These notices of copyright appeared on published copies of each of the sound recordings identified in Exhibit A. These published copies were widely available, and each of the published copies of the sound recordings identified in Exhibit A was accessible by Defendant.

17. Plaintiffs are informed and believe that the foregoing acts of infringement have been willful and intentional, in disregard of and with indifference to the rights of Plaintiffs.

18. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) for Defendant's infringement of each of the Copyrighted Recordings. Plaintiffs further are entitled to their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

19. The conduct of Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing Plaintiffs' copyrights, and ordering Defendant to destroy all copies of sound recordings made in violation of Plaintiffs' exclusive rights.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For an injunction providing:

"Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the Copyrighted Recordings and any sound recording, whether now in existence or later created, that is owned or controlled by

Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (i.e., download) any of Plaintiffs' Recordings, to distribute (i.e., upload) any of Plaintiffs' Recordings, or to make any of Plaintiffs' Recordings available for distribution to the public, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.
3. For Plaintiffs' costs in this action.
4. For Plaintiffs' reasonable attorneys' fees incurred herein.
5. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Soble Rowe Krichbaum, LLP

By:

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Dated: 11/17/05

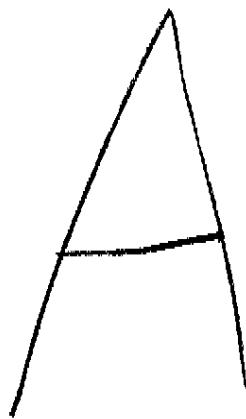
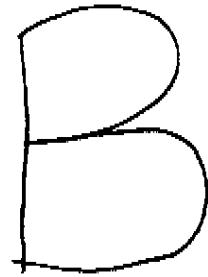


EXHIBIT A**LARRY SCANTLEBURY**

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Capitol Records, Inc.	Beastie Boys	Body Movin'	Hello Nasty	277-731
SONY BMG MUSIC ENTERTAINMENT	Dixie Chicks	You Were Mine	Wide Open Spaces	252-000
Atlantic Recording Corporation	Neal McCoy	The Shake	Be Good At It	243-513
Capitol Records, Inc.	Keith Urban	Where The Blacktop Ends	Keith Urban	273-265
SONY BMG MUSIC ENTERTAINMENT	Pearl Jam	Porch	Ten	137-787
SONY BMG MUSIC ENTERTAINMENT	Dixie Chicks	Goodbye Earl	Fly	275-086
UMG Recordings, Inc.	George Strait	Carrying Your Love With Me	Carrying Your Love With Me	238-679
Warner Bros. Records Inc.	ZZ Top	Sharp Dressed Man	Eliminator	45-132
Arista Records LLC	Avril Lavigne	Complicated	Let Go	312-786
BMG Music	Lonestar	Tell Her	Lonely Grill	187-003



User	Username	File	Artist	Size	Media
penguin@KazaA	Nelly - El.mp3	Nelly		6,692KB	Audio
penguin@KazaA	Bon Joy - You Gave Love A Bad Name.mp3	Bon Joy		3,064KB	Audio
penguin@KazaA	Styx - Renegade.mp3	Styx		10,038KB	Audio
penguin@KazaA	ACDC - Born To Be Wild.mp3			3,284KB	Audio
penguin@KazaA	Tracy Byrd - Drinking Bone.mp3	Tracy Byrd		3,093KB	Audio
penguin@KazaA	CC Music Factory - I've Got The Power.mp3	CC Music Factory		5,207KB	Audio
penguin@KazaA	Bee Gees - Disco Inferno.mp3	Bee Gees		6,144KB	Audio
penguin@KazaA	Nelly - #1.mp3	Nelly		3,885KB	Audio
penguin@KazaA	(Foreigner) Hot blooded.mp3	Foreigner		2,539KB	Audio
penguin@KazaA	the rolling stones - satisfaction I can't get no.mp3	Rolling Stones		3,523KB	Audio
penguin@KazaA	JOCK JAMES - RAISE DA ROOF.mp3	Luke		2,958KB	Audio
penguin@KazaA	George Strait - Good Morning Beautiful.mp3	George Strait		3,022KB	Audio
penguin@KazaA	Marvin Gay - When A Man Loves A Woman (Y).mp3	Oldies 50's 60's 70's		2,002KB	Audio
penguin@KazaA	JOHNNY TAYLOR - DISCO LADY.mp3	Johnnie Taylor		3,582KB	Audio
penguin@KazaA	Foreigner - Break It Up.mp3	Foreigner		3,958KB	Audio
penguin@KazaA	Bobby Darin - Splish Splash.mp3	Oldies		2,078KB	Audio
penguin@KazaA	Mega Mix Medley - ZZ Top, ACDC, Foreigner.mp3	AC/DC		4,314KB	Audio
penguin@KazaA	Brian McComas - You're In My Head.mp3	Brian McComas		2,548KB	Audio
penguin@KazaA	Guns and Roses - Welcome to the Jungle (3).mp3	Guns and Roses		1,832KB	Audio
penguin@KazaA	Shaggy featuring Janet Jackson - Mr Lover.mp3	Shaggy featuring Janet Jackson		3,608KB	Audio

File		View		Search		Actions		Help	
User		Download		Search		Upload		Tell A Friend	
User	Filename	Artist	Size	Media Type		Artist	Size	Media Type	
penguin@kazaa	Even Flow.mp3	Pearl Jam	3,505KB	Audio		Pearl Jam	3,998KB	Audio	
penguin@kazaa	Pearl Jam - Alive.mp3	Pearl Jam	999KB	Audio		Beach Boys	2,830KB	Audio	
penguin@kazaa	Beach Boys - Fun Fun Fun.wma	Beach Boys	4,366KB	Audio		Tim McGraw	4,366KB	Audio	
penguin@kazaa	Tim McGraw - Just to see you smile..mp3	Tim McGraw	3,203KB	Audio		Toby Keith	2,872KB	Audio	
penguin@kazaa	Kiss Me Like This.mp3	Third Eye Blind	4,308KB	Audio		Third Eye Blind	4,308KB	Audio	
penguin@kazaa	third eye blind - how's it going to be (acoustic).mp3	Beastie Boys	3,454KB	Audio		Beastie Boys	1,999KB	Audio	
penguin@kazaa	Beastie Boys - Body Moving.mp3	The Beastie Boys	1,760KB	Audio		The Beastie Boys	1,760KB	Audio	
penguin@kazaa	The Beastie Boys - The New Style.mp3	Comedy	1,050KB	Audio		Comedy	1,050KB	Audio	
penguin@kazaa	Comedy - Cletus T Judd - First Redneck On the Internet.m	Comedy	4,257KB	Audio		Toby Keith	1,722KB	Audio	
penguin@kazaa	comedy - elmo kills barney.mp3	comedy - elmo kills barney.mp3	4,704KB	Audio		Beach Boys	3,036KB	Audio	
penguin@kazaa	toby keith - Every Light in the House is on.mp3	toby keith - Every Light in the House is on.mp3	2,638KB	Audio		Unknown Artist	2,638KB	Audio	
penguin@kazaa	saved by the bell - Beach Boys - Ba-ba-baran (1).mp3	saved by the bell - Beach Boys - Ba-ba-baran (1).mp3	1,999KB	Audio		Beastie Boys	2,640KB	Audio	
penguin@kazaa	COMEDY - Weird Al - Anti-Thong Song.mp3	COMEDY - Weird Al - Anti-Thong Song.mp3	1,760KB	Audio		Alan Jackson	2,318KB	Audio	
penguin@kazaa	05 Just a Test.wma	05 Just a Test.wma	1,050KB	Audio		Beastie Boys	1,050KB	Audio	
penguin@kazaa	[Alan Jackson] - Remember When.wma	[Alan Jackson] - Remember When.wma	4,257KB	Audio		Ludacris	1,722KB	Audio	
penguin@kazaa	09 Putting Shame in Your Game.wma	09 Putting Shame in Your Game.wma	4,704KB	Audio		The Platters	3,036KB	Audio	
penguin@kazaa	Ludacris - Southern Hospitality.mp3	Ludacris - Southern Hospitality.mp3	2,640KB	Audio		Beastie Boys	2,640KB	Audio	
penguin@kazaa	Platters - Duke of Earl.mp3	Platters - Duke of Earl.mp3	2,318KB	Audio		Elton 182	2,318KB	Audio	
penguin@kazaa	Beastie Boys - No Sleep Till Brooklyn.mp3	Beastie Boys - No Sleep Till Brooklyn.mp3	1,722KB	Audio		Elton 182 - What's My Age Again?.mp3	1,722KB	Audio	
penguin@kazaa	Elton 182 - What's My Age Again?.mp3	Elton 182 - What's My Age Again?.mp3	1,722KB	Audio		Elton 182 - What's My Age Again?.mp3	1,722KB	Audio	

Case 2:05-cv-74394-ADT-VMM ECF No. 1, PageID.37 Filed 11/17/05 Page 15 of 20						
User	File name	Artist	Size	Media	Type	
penguin@KazaA	U1 Jon and the Eastside boys - Get Low.mp3	U1 Jon AND THE EASTSI...	5,291KB	Audio		
penguin@KazaA	Red Hot Chilly Peppers - California.mp3	Red Hot Chili Peppers	3,252KB	Audio		
penguin@KazaA	ZZ Top - Give Me all Your Lovin'.mp3	ZZ Top	3,745KB	Audio		
penguin@KazaA	Red Hot Chili Pepper - Suck My Kiss.mp3	Red Hot Chili Peppers	2,544KB	Audio		
penguin@KazaA	Unknown	Unknown	55KB	Image		
penguin@KazaA	Simple Plan	Simple Plan	4,368KB	Audio		
penguin@KazaA	Lonestar	Lonestar	4,056KB	Audio		
penguin@KazaA	A	Nelly feat Tim McGraw	673KB	Audio		
penguin@KazaA	Original Soundtrack	Original Soundtrack	1,026KB	Audio		
penguin@KazaA	Beatles	Beatles	1,140KB	Audio		
penguin@KazaA	Kanye West	Kanye West	2,395KB	Audio		
penguin@KazaA	Garth Brooks	Garth Brooks	3,534KB	Audio		
penguin@KazaA	Kenny Chesney	Kenny Chesney	3,189KB	Audio		
penguin@KazaA	Joe Nichols	Joe Nichols	4,248KB	Audio		
penguin@KazaA	Full Metal Jacket	Full Metal Jacket	3,459KB	Audio		
penguin@KazaA	Rolling Stones	Rolling Stones	1,962KB	Audio		
penguin@KazaA	Blink 182	Blink 182	3,119KB	Audio		
penguin@KazaA	Usher	Usher	2,575KB	Audio		
penguin@KazaA	Nelly	Nelly	1,041KB	Audio		
penguin@KazaA	Let It Burn- Usher.wma		4,923KB	Audio		
penguin@KazaA	Nelly - Suit - 05 - N' Day Slay.mp3					Found 368 files

The screenshot shows the Kazaa search interface with the search term '38 Special' entered. The results table has columns for 'Used' (checkbox), 'Element' (file name), 'Artist' (artist name), 'Size' (file size), and 'Media' (file type). The results are as follows:

Used	Element	Artist	Size	Media
	38 Special - Hold on Loosely.mp3	38 Special	4,456KB	Audio
	Jamie O'Neal - Trying To Find Atlantis.wma	Jamie O'Neal	1,645KB	Audio
	One call away.wma	Chingy	4,368KB	Audio
	You're My Better Half.wma	Keith Urban	5,997KB	Audio
	Slayer - War Zone.mp3	Slayer	2,584KB	Audio
	I Dare You to Move.mp3	Switchfoot	2,906KB	Audio
	Usher - All About U - 02 - U Got It Bad.mp3	Usher	3,803KB	Audio
	Trace Atkins - Hot Mama.wma	Trace Atkins	3,112KB	Audio
	Rascal Flatts - Bless the Broken Road.wma	Rascal Flatts	3,574KB	Audio
	Oldies.kpl	Unknown	2KB	
	TI - Rubber Band Man.wma	TI	2,743KB	Audio
	03 Thuggish Ruggish Bone.wma	Bone Thugs N Harmony	2,232KB	Audio
	Bone Thugs N Harmony and 2Pac - Ak47.mp3	Bone, Tupac, Mr. Shadow Kelis	4,507KB	Audio
	Milk shake.mp3	Eminem and D12	2,955KB	Audio
	The name of my band.mp3	Easy E	6,144KB	Audio
	Easy E - Pussy Song.mp3	Jimmy Wayne	2,908KB	Audio
	10 - Track 10.mp3	Keith Urban	2,320KB	Audio
	Keith Urban - You'll Think of Me.wma	Mike Lee	4,618KB	Video
	Vivid - Miko Lee taking two loads.mpg	Unknown	25KB	Image
	lisa_dergarten hot latex pants.jpg			

[REDACTED]

Kazaa - [Search]

User	Download	File Name	Artist	Size	Media Type
penguin@kazaa		lisa_dergan hot latex pants.jpg	Unknown	26KB	Image
penguin@kazaa		50 Cent - Candy Shop (8).wmv	50 Cent	1,671KB	Audio
penguin@kazaa		lisa Dergan Montage (1).jpg	Unknown	188KB	Image
penguin@kazaa		Crista Nicole 19.jpg	Unknown	101KB	Image
penguin@kazaa		Rodeo-Garth Brooks.kar	Rodeo	42KB	Audio
penguin@kazaa		i Can't Sleep.wma	Clay Walker	1,916KB	Audio
penguin@kazaa		Edge - REAL FULL new ROB ZOMBIE theme.mp3	Bob Zombie	2,673KB	Audio
penguin@kazaa		Kid Rock - Bawitdaba.wma	Kid Rock	4,205KB	Audio
penguin@kazaa		Bryan Adams - Please Forgive Me.mp3	Bryan Adams	4,287KB	Audio
penguin@kazaa		Lisa Dergan Golf Tits.jpg	playboy	64KB	Image
penguin@kazaa		Staind - Its Been Awhile.mp3	Staind	4,164KB	Audio
penguin@kazaa		WHEN I MOVE YOU MOVE--Ludacris.wma	Ludacris	3,580KB	Audio
penguin@kazaa		garth brooks - the hits - 11 - rodeo.mp3	garth Brooks	5,428KB	Audio
penguin@kazaa		JOHNNY HALLYDAY - BLUE SUEDE SHOES.mp3	JOHNNY HALLYDAY	2,015KB	Audio
penguin@kazaa		penthouse shower scene_1.mpg	Unknown	5,123KB	Video
penguin@kazaa		Colin Ray - little red rodeo.mp3	Colin Raye	3,201KB	Audio
penguin@kazaa		Lets Go.wma	Trick Daddy	3,557KB	Audio
penguin@kazaa		Get Back.mp3	Ludacris	4,319KB	Audio
penguin@kazaa		09 Track 9.wma	Tim McGraw/Nelly	2,008KB	Audio
penguin@kazaa		Over And Over Again.mp3	Nelly	3,970KB	Audio

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File View Player Tools Actions Help									
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User	Download	Search	Search Field	Artist	Size	Media Type
penguin@KazaA				Nelly ft. Outkast, DMX, E...	4,437KB	Audio
penguin@KazaA				Tom Petty	3,480KB	Audio
penguin@KazaA				Nelly Feat. Jagged Edge.	4,544KB	Audio
penguin@KazaA				Nelly	2,238KB	Audio
penguin@KazaA				Lonestar	3,350KB	Audio
penguin@KazaA				Puffy	5,712KB	Audio
penguin@KazaA				War	3,118KB	Audio
penguin@KazaA				Soggy Bottom Boys	2,970KB	Audio
penguin@KazaA				Sweet	3,796KB	Audio
penguin@KazaA				Shaggy	5,503KB	Audio
penguin@KazaA				City High	3,430KB	Audio
penguin@KazaA				Shaggy	3,690KB	Audio
penguin@KazaA				Men Without Hats	2,589KB	Audio
penguin@KazaA				Avril Lavigne	1,631KB	Audio
penguin@KazaA				Third Eye Blind	2,904KB	Audio
penguin@KazaA				Nelly	4,001KB	Audio
penguin@KazaA				Lynyrd Skynyrd	3,281KB	Audio
penguin@KazaA				CC Music Factory	3,851KB	Audio
penguin@KazaA				Robert Palmer	2,971KB	Audio
penguin@KazaA				Nazareth	3,678KB	Audio